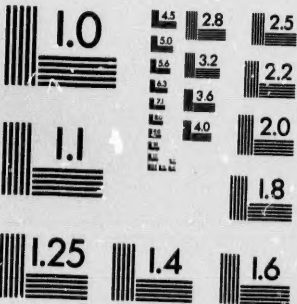


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ST. JOHN, N. B.

REMINISCENCES,

ON

OBSERVATIONS

ON

THE LEADING MEASURES INTRODUCED IN THE

House of Assembly of New Brunswick,

BEGINNING WITH THE ADMINISTRATION OF

HON. J. H. T. MANNERS-SUTTON.

(WITH BRIEF BIOGRAPHICAL SKETCHES.)

By G. E. FENETY,

(QUEEN'S PRINTER.)

PUBLISHED FOR THE NEW BRUNSWICK HISTORICAL SOCIETY,

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INTRODUCTION.

From the settlement of this Province up to the year 1854, —when the system of Government under which we now live, was first put into operation—the conduct and management of public affairs and business, and the distribution of patronage, rested in the hands, and were under the control of a dominant class. The “family compact,” as it was familiarly and systematically styled by those outside the pale, was composed of men of consideration who, with seats in the Executive Council, held all the higher offices to which large salaries were attached. The compact was a kind of autocracy—the members of which maintained that they were not amenable for their acts to the people; but while holding themselves independent of the popular voice, they were subject to a power higher than their own—namely, the Lieutenant Governor, who carried out the will of the Colonial Secretary. The Province in the first half century of its existence was in fact governed from “Downing Street.” Holding their positions and offices from the Crown, it was the interest of the Council to uphold the prerogative vested in the hands of the Lieutenant Governor; and it happened that the members of the Executive seldom resisted any encroachment of the Governor on the power it was assumed they

possessed in virtue of their position. If the advice tendered by the Council on any grave matter was disregarded by the Governor, because it was contrary to the views he himself held, or not in consonance with instructions from Downing Street, his Excellency's advisers were constrained to yield. This state of things was long held, by the leading spirits on the popular side, to be a grave grievance; and to effect a reform was a work to which the rising and ambitious talents of the country addressed themselves earnestly and vehemently. In 1840 the cry for "Responsible Government" was loud and echoed on the floors of the House. Year after year from that date, the agitation was maintained, and in conducting it some of the ablest men the Province has yet produced took the lead. Not until fourteen years after the commencement of the Responsible Government reform movement, did success perch upon the banners of the agitators. In 1854 the reins of power were for the first time wrested from the grasp of those who for half a century and more had tightly held them. Then began the system of government by which the members of the Executive held office and power, not during good behaviour, as of old, but so long as they could command a majority upon the floors of the House of Assembly. Their "good behaviour" is now judged by their good performances, not only in the capacity of advisers to the Lieutenant Governor, but as originators of sound measures for the advancement of the best interests of the country.

This Volume ushers in the dawn of a new political era, commencing with the Fall of 1854, when a strictly party Government upon well defined issues, was formed for the first time, and has been going on ever since, in one continual chain—old links occasionally being removed and new ones substituted—down to the present year—1883. The cause of the downfall of the Administration of 1854, will be fully explained in future pages. The last Lieut. Governor (Sir Edmund Head) like his predecessors, exercised a resolute will; but the arms of the reformers in the Assembly had gradually been gaining strong nerve-force—while the eyes of the people

were daily being opened wider and wider to the realities of the situation, and the semi-bondage under which outside intermeddling appeared to hold them. The last ounce which bore too heavily upon a long patient country, at length broke the spell of passive obedience, and led to the rupture between the reformers in the House and the Governor's Council, who were charged, tried, condemned and punished for having allowed his Excellency to act and decide for himself in a grave matter, without protesting on their part or resigning their seats on account of the usurpation. It was assumed that the lesson thus taught, in the defeat of the Government, on account of the conduct of Sir Edmund Head, would keep future Governors within the limits of their power, and future Governments up to their responsibilities. The coming of the new Governor to the Province in the autumn of 1854, after the general elections which took place in June, was hailed with great satisfaction by those who expected to see the principles of responsibility fully and fairly carried out. The reputation of the Hon. Mr. Manners-Sutton, as an eminent member on the reform side of the House of Commons, had preceded him, and high hopes were entertained. Yet, as will be recounted in these pages, he too showed a disposition to act independently of the advice of his Council when a grave question arose between them, and that within a year from the time he was sworn in. And his successor, Hon. Arthur H. Gordon, was also firmset in his own opinions, and as little disposed to be guided entirely, on matters of moment, by his Council. But the disposition of a Governor to act independently was now kept in check by the class of men whom the reform agitation had brought to the front, and were thoroughly imbued with the new theories of government and determined to carry them out in practice. They were not satisfied to have the form without the substance. And, as these pages will shew, whatever Government have come into power since 1854, they have, when occasion called, maintained their constitutional principles by resigning office when the Governor refused to act upon their advice. These remarks, however, apply to what was for-

merly called "royal Governors," sent out from England. Since "Confederation" our Governors are appointed from a class of men who better understand the wants and habits of the people, and the Constitutional rights they possess; and from having served a thoroughly Colonial Legislative training themselves, know how to govern from experience, and not from opinions formed on the other side of the Atlantic, often at variance with the "well understood wishes of the people" on this side.

CHAPTER I.

General Elections—Speeches on the Hustings—Unsettled state of Politics—Government and Opposition returns in St. John equal—A majority of Liberals elected all over the Province—Departure of Sir Edmund Head and arrival of his successor, Hon. J. H. T. Manners-Sutton—Special Session of the Legislature—The Reciprocity Treaty—Strong Party Speeches—Defeat of the old Government and formation of the first Party Government in New Brunswick.

The General Elections were held in the month of June, 1854. Nomination day in Saint John was on the 2nd. The Candidates were—

For the City—James A. Harding, Isaac Woodward, S. L. Tilley, and J. W. Lawrence, Esqrs.

For the County—Hon. J. H. Gray, Hon. R. D. Wilmot, J. F. Godard, John R. Partelow, W. J. Ritchie, Allan McLean, and William Hawkes, Esqrs.

The principal speakers were Messrs. Partelow, Wilmot, and Gray, on the side of the Government; and Messrs. Ritchie, Tilley, and Harding, in opposition. The other Candidates spoke more on their own account, as untried "independent" politicians. The acts of omission and commission by the Government, underwent a severe criticism at the hands of Messrs. Ritchie and Tilley, but as stoutly rebutted

and defended by Messrs. Wilmot and Gray. It was a war of words between these Gentlemen in the open air, upon the Court House steps, for some hours; but it is unnecessary to follow the speeches, or even make allusion to the points made, as they will hereafter come up in detail.

The result proved that the Constituency of St. John (the County at all events) was yet in an uncertain, unsettled political state, being actuated more by personal than party considerations; for the three Government supporters, viz: Messrs. Partelow, Gray and Wilmot—and their most implacable political opponent, Mr. Ritchie, were all returned at the same time. The City appeared to be more consistent, whether from design or chance it matters not, for Messrs. Tilley and Harding were the choice. Taking City and County, the honours were divided and therefore easy, viz: three Government, and three Opposition. The political equilibrium, however, remained unaltered in the County. In the absence of fixed principles in the minds of the electors, there could be no preponderating influence with one party more than another. The great battles of the Constitution had yet to be fought; desperate encounters had to be made between Liberals and Conservatives; but the army of the former had to look for recruits outside of St. John, for where there were so many personal likes and dislikes, there could be no political affinity, no coherence between those who called themselves Liberals for the expulsion from power of those who were recognized as Conservatives. Mr. Partelow's personal influence carried all before it. No matter what his political faults, (and who is without them?) they were all overlooked in the man himself. He had only to go among the electors and take them by the hand, and they—were converted! Perhaps no public man since the days of Fox, or Wilkes, had a more suave manner, and knew better how to take advantage of the blind side of a voter—all is said to be fair in politics that is not dishonorable. Many anecdotes are related of his strategic skill in privately conquering an opponent; but to relate them here would be out of place.

St. John, however, *although by chance*, returned three out-and-out opponents of the Government, men with tact and determination, two of whom were still writhing under what they conceived to be an injustice done them on a former occasion, a wrong which led them to resign their seats, and retire for two years into private life. This was so far an earnest that the rest of the Province would follow the example, and that a majority of Liberals, of unquestionable faith, would be elected to the new House.

York County, which at the election four years before, rejected Mr. Fisher, now sent him in at the head of the poll, giving him 1185 votes, which was 198 more than the next highest Candidate received; although this County was influenced by local rather than political feelings, and thought that Mr. Fisher was the best man for the special interests of York. Like St. John then, political principles entered but very inadequately into the contest—chance, however, as in the former County, divided the seats equally between the Liberals and Conservatives, two and two.

Northumberland likewise made a mongrel return—for the same tide that floated Mr. J. M. Johnson upon the crest of the wave, did not leave a great distance behind him the Attorney General (Hon. John A. Street), the gentleman who not long before this had rendered himself so unpopular to his constituency, that they sent in two requisitions one after another calling upon him to resign his seat, because they felt aggrieved at his railway conduct, when he told them in substance that he knew what was better for the interests of his constituents than they did themselves. This County, like St. John and York, split up its votes, giving half to the Liberals and half to the Conservatives. Thus three of the leading Counties returned seven Liberals and seven Conservatives, thereby implying that the conduct and merits of the one party on the floors of the House, were on a footing with those of the other; and that public opinion was equally divided as to whether any change in the existing system of Government, (with the alleged train of evils incident thereto,) would lead to any improvement or advantage to the interests

of the country. The returns for the whole Province, however, as appears below, gave a majority of Liberals elected, which may be called an *accidental ascendancy*, for which the people generally were not at all responsible—if real principles be taken into account.

The following were the returns for the whole Province—those marked thus (*) were new Members, although some of them had been in former Houses:—

County of St. John—Hon. J. R. Partelow, Hon. R. D. Wil-
mot, Hon. John H. Gray, and William J. Ritchie,* Esq.

City of St. John—James A. Harding and S. L. Tilley,*
Esqrs.

County of Kent—Robert B. Cutler and Francis McPhelim,
Esqrs.

York—Charles Fisher,* Charles Macpherson, James Tay-
lor, and George L. Hatheway, Esqrs.

Victoria—Francis Rice and James Tibbits,* Esqrs.

Carleton—Charles Connell and Richard English, Esqrs.

Westmorland—Daniel Hanington, Albert J. Smith, Amand
Landry, and James Steadman,* Esqrs.

Northumberland—George Kerr, Hon. J. A. Street, J. M.
Johnson, and Richard Sutton,* Esqrs.

King's—Mathew McLeod, George Ryan, and Henry W.
Purdy, Esqrs.

Gloucester—Wm. End* and Patrick McNaughton,* Esqrs.

Restigouche—Hon. John Montgomery, and Chipman Bots-
ford,* Esq.

Queen's—Samuel H. Gilbert and John Ferris,* Esqrs.

Albert—Edward Stevens* and Abner McLellan,* Esqrs.

Charlotte—A. H. Gilmour,* John McAdam,* Jas. Brown,*
and James Boyd, Esqrs.

Sunbury—Hon. George Hayward, and Enoch Lunt,* Esq.

DEPARTURE OF SIR EDMUND HEAD.

In the month of October Sir Edmund Head (being elevated to the Governor-Generalship of Canada) took his departure from New Brunswick. A few days previous to this, he held his farewell levee in Fredericton and in St. John, which were

well attended. Hon. R. L. Hazen, as Recorder of St. John, read an Address from the Corporation, regretting the departure and congratulating him upon his elevation to a higher position. To which His Excellency made a suitable reply. Sir Edmund was succeeded by Hon. J. H. T. Manners-Sutton (son of a former Speaker of the House of Commons, in later years Lord Canterbury) who arrived in the Province in time to have an interview with his predecessor.* The following is the announcement from a St. John newspaper (Oct. 6) of His Excellency's arrival:—

"His Excellency the Lieut. Governor arrived in the steamer *Governor* at 12 o'clock yesterday, and landed immediately afterwards in company with Mr. Partelow. His Excellency is about Mr. Partelow's height, of spare make, and has a dark florid complexion. There was an immense concourse of people at the landing when Mr. Manners-Sutton arrived, who surrounded him on all sides, to obtain a view of him, and crowds followed him through the streets on his way to the Hotel. A Royal salute was fired from on board one of the Black Ball Line of Packets, as the Steamer approached the wharf. His Excellency leaves town this morning at 9 o'clock for Fredericton."

SPECIAL AND IMPORTANT SESSION OF THE LEGISLATURE.

On the 20th October, a special Session of the Legislature was called, for the purpose of taking action upon, and ratifying, the Reciprocity Treaty made between England and the United States. The war of party commenced immediately on members proceeding to their chamber. Mr. Hanington was elected Speaker. The House had scarcely heard the Address read by the mover when it began to exhibit signs of insubordination. They would not hear the Address read from the Chair. Mr. Fisher brought in a bill; Mr.

* We now had a new House, a new Governor, and (as it will be seen in the course of the next Chapter) were soon to have a new Government.

Cutler another; Mr. Harding a third; and Mr. Tilley a fourth. The Government members spoke of the Session as a Special Session, called to deliberate upon the acceptance of the Treaty, &c. Mr. Ritchie and Mr. End reminded the Government that being convened they had the right to do whatever they thought it their duty to do, as this was to all intents and purposes a General Assembly, and Mr. Fisher declared that as it was the first Session of the new House, there were many things that must now be settled—amongst others the Government of the country for the next four years.

Mr. Fisher moved an amendment to the Address, and spoke for four hours. He was very severe upon the arbitrary conduct of Sir Edmund Head. He went into a long explanation of his own conduct at the time he retired from the Government, and shewed by correspondence never before made public, that he at once objected to the Governor appointing the Judges, and declared that he would not put up with it. Sir Edmund, he declared, sent the notice to the *Royal Gazette*, in his own hand writing, without shewing it to, or consulting the Council. He then went on to attack the present Attorney General (Street) for joining the Government he had just declared "politically dishonest," and in this part of his speech he was very severe. He was also severe in his comments upon the School and Municipal Laws, and upon the Election Bill brought into the House by the hon. Atty. General and afterwards withdrawn. Mr. Brown followed on the same side. This gentleman had consented to move the Address, but afterwards finding that the proposition was an endeavour on the part of the Government to entrap him, he declined the honor, and supported the amendment. As this amendment is important, involving the stability of the Government, and their final defeat, it is here copied:

"It is with feelings of loyalty and attachment to Her Majesty's Person and Government, that we recognize in that provision of the Treaty which requires the concurrence of this Legislature, a distinct avowal of the Imperial Government of their determination to preserve inviolate the principles of Self-Government, and to regard the Constitution of the Province as sacred as that of the parent State. We regret

that the conduct of the local Administration during the last four years has not been in accordance with these principles, and we feel constrained thus early most respectfully to state to your Excellency, that your Constitutional Advisers have not conducted the Government of the Province in the true spirit of our Colonial Constitution."

Messrs. Street, Wilmot, Gray, were the leading speakers on the Government side. Messrs. Ritchie, Tilley, Johnson, Smith, Harding, in opposition. Heavy blows were exchanged; but it was evident that the fate of the Government was sealed; day after day as the debate progressed new converts were made to the opposition ranks. Those "doubtful" gentlemen who kept their hands under their desks unwilling to show them to either party or to commit themselves by word or look until they could satisfy themselves beyond a doubt which side would preponderate, now gradually, one by one, emerged from their shells, and at the last moment threw themselves into the arms of the Opposition, and became great Liberals! On the night of the 27th, the eve before the final division was to take place, the exact position of every member was fixed and understood. The whole Province appeared to be in a state of excitement. The wires connecting with St. John were in continual operation, flashing along the probabilities of the result. Never were the people more *political* on any occasion—the Liberals at the prospect of finally conquering their old opponents—the Conservatives that all their power and prestige were about to be wrested from their grasp for the first time and forever since the Province was portioned off from Nova Scotia. The grounds of attack and defence may be thus summarised. It was charged against the Government, by Mr. Fisher, the leader of the Opposition, who had been one of them, but recently retired, that his *confreres* submitted to an undue exercise of authority on the part of Sir Edmund Head. In this wise—Chief Justice Chipman had retired from the Bench; and it was the wish of the Government to reduce the number of Judges to three, and the Master of the Rolls to act as one of the Judges, making four; this vacation of the Chief Justiceship furnished the opportunity, they thought, and at the same time would

cause a saving to the country. The Hon. L. A. Wilmot was Attorney General, (1850) and in the order of political succession according to Responsible Government, should have been made Chief Justice; but inasmuch as he had allied himself with the Conservatives a few years before this, (justified by his friends at the time,) ere the Constitution we now have was reduced to proper working order, he had no old Constitutional friends to rely upon and back him up should he make a stand for his rights. The Government advised that the Chief Justiceship should be entailed in seniority. His Excellency after asking for advice and getting it, proceeded on his own ideas of what were right and proper. He accordingly recommended to the Colonial Secretary the names of Judge Carter for the office of Chief Justice, and the Attorney General (L. A. Wilmot) for that of Puisne Judge. Moreover the Judges themselves drew up a Memorial in opposition to the views of the Council, which His Excellency forwarded to the Colonial Office in company with his own—and the Council were not permitted to see it. The appointing power was thus virtually set aside, or taken out of the Government of this Province, and as of old ere Self-Government was conceded, handed over, as it were, through the Lieut. Governor, to Downing Street. The inner view of this movement may be thus rendered. Mr. L. A. Wilmot had for years been the most determined opponent of “the old compact party” as it was called; and now having him on their side as their Attorney General, the endeavour was to hold him as their expounder and defender upon the floors of the House. To do this, it was necessary to close the doors of the office of one of the Judges—since Judge Chipman had resigned—which office was Mr. Wilmot’s by right of political succession. Instead therefore, of being actuated by a patriotic and economical desire it was that of selfishness—to hold office as long as possible. And there is still another explanation to be given, perhaps for the first time, to the public. It was not Sir Edmund’s intention to appoint Mr. Wilmot to the office,—whoever else he may have had in view,—but Mr. W. insisted upon his rights and produced

a document, signed by Lord Glenelg, Secretary for the Colonies at the time when Mr. W. was a delegate in England,—in which His Lordship informed him that at any time he could render him a service not to hesitate about writing to him. The reading of this document brought Sir Edmund to a clearer comprehension of the situation; for he at once saw that with such powerful influences as might be invoked in England by Mr. Wilmot's friends, it would probably in the end tend to his own (Sir Edmund's) discomfiture, and therefore it would not be well to arouse the slumbering lion, by turning his back upon Mr. Wilmot's claims. Suffice it to add, that this gentleman was appointed with Judge Carter—and hence all the difficulty with the Government and the turmoil that followed. It was not, however, that the House and the country considered that Mr. Wilmot was not entitled to the office. The difficulty arose on the ground that the Council having as part of their policy advised His Excellency not to fill the vacancy, and then allowing him to act contrary to their advice without protest, and surrendering their offices.

The following extract from Mr. Fisher's speech will furnish some of the points made in the course of the lengthened debate that extended over four days:—"Had the Council resigned, (said Mr. F.) His Excellency would have been compelled to abandon the appointment or get another Council to sustain him. In the case of Mr. Reade, the Council resigned on that ground, and though the principle was in a very crude state he called a new Council, against whom the House passed a vote of no confidence, and Mr. Reade's appointment was finally cancelled. He would shew that the Governor erred knowing the truth. In his Minute he says—'If those recommendations are at variance with the advice of the Executive Council it is open to the Members of that body to take their own course.' He (Mr. F.) did not complain of the political doctrine concealed in this sentence, it was correct; he quoted it to prove that Sir Edmund knew what the true principle was. In plain English, if the Council were not satisfied with his recommendations they could resign. If he appointed adversely to their advice, they

could retire; if they did not, they were responsible for they must defend the appointment. The dilemma the Governor was in was, that with the full knowledge of that constitutional principle he had made a recommendation adverse to their advice, and never shewed them or apprised them of it; how, in his own language, could they take their own course? they were in ignorance of his course, how could they take theirs? In this the whole difficulty consisted. He (Mr. F.) had no doubt, when Lord Grey authorized the appointment, he did it under the impression that the recommendation of the Governor had been shewn to the Council as it ought to have been, and as they had neither remonstrated or resigned, that they had deferred to it. Depend upon it, Lord Grey never would have authorized the appointment in any other way; he never would have interfered with the local patronage to gratify any Governor. After the Governor saw that the Council would tamely submit to such a proceeding, he knew that he had them at his feet. From that day they were prostrate, and to it may be attributed all the subsequent acts of the Government. His whole administration after that had been a government by Despatches, and effort after effort to curtail the principle of self-government and magnify the Colonial Office. * * * Before he left the Despatch, there was a remark of the Governor's worthy of note. He says 'I confess myself to be in great perplexity.' That was a state of mind a Governor with constitutional advisors, ought never to be in; why need he perplex himself whether there were three or six Judges, or who should hold one office or the other? His whole difficulty arose from his desire to have his own way, and do as he pleased; and had he been met with that independence and firmness that the rights of the people required, he would have been in much greater perplexity. It must not be supposed that he wished to deprive the Governor of what was his constitutional prerogative. He (Mr. F.) considered the maintenance of the prerogative of the Crown as essential to the liberty of the subject, as the protection of the rights of the people."

This was not the only charge against the Government, but it was the main one and perhaps the most damaging. The Opposition complained also that this Government was but a continuation of the old one, extending over a period of very many years—indeed since the appointment of Mr. Wilmot to the Bench, and the withdrawal of the Hon. Mr. Fisher, it had resolved itself into its original elements—"the old family compact." From time to time changes had been made—when one member went out, another took his place; it was therefore what might be called an involutory Government—the old leaven was in the lump, and no new patch put upon it could, in the eyes of the Opposition, alter its complexion. It was a change of men without change of principles. And so it was said that the faults committed (it might have been thirty years before) were visited upon the heads of the present incumbents, as if they were equally the guilty parties, because when they took office, these faults had not been expiated; and therefore the responsibility in a direct line descended to "the third and fourth generations" of Executive Councillors. But then the defence had something to say in extenuation if not in justification of *their* conduct, and give their views of the Constitution. And here it may be remarked that the old British axiom—"The Queen can do no wrong,"—seems to have lost its meaning on this occasion; for although her representative is supposed to be enshrined under the same peculiar fiction, "the divinity that doth hedge a King," His Excellency's name and conduct were dealt with upon the floors of the House day after day, as if he alone were guilty of the chief wrong committed, and for which his Council were now put upon their trial.

The Attorney General (the Hon. John Ambrose Street) made one of the most able and forcible speeches ever delivered in the House, in answer to the lucid speeches in opposition. (In print it would probably make twenty five pages, size of this.) He complained that the Opposition should have taken the present opportunity to try and defeat the Government, when the Legislature had been called together for a special purpose—to consider the Reciprocity Treaty

only. The Government were therefore taken by surprise and consequently unprepared for attack and defence. In regard to the question of the Judges and Sir Edmund Head, this was all settled before *he* took office, and therefore he could not be held accountable. It had been made a grave charge that His Excellency had compelled his Council to crouch at his feet. Now what did His Excellency do? How did his Council quail before him and lie prostrate at his feet? The Governor had sent a Message to the Council, which they disapproved of, and upon their remonstrance it was withdrawn. The hon. member's conduct (Mr. Fisher) upon this point had been exceedingly disingenuous, and he (Hon. Attorney General) would say that although not then a member of the Government, or in any way connected with it, and therefore not called upon to justify their measures at that period, yet from the hon. member's own statement, and from the despatches and documents appearing in the Journals of the House, he could not find that His Excellency Sir Edmund Head had, under the peculiar circumstances in which he was then placed, acted wrong, or unconstitutionally, according to Responsible Government; nor did he believe the course Sir Edmund then took was the cause of the hon. member's boasted resignation, which, if the hon. member had been sincere, should have been sent in immediately that he was rejected by the people at the general election of 1850, or failed to secure his return, instead of waiting till nearly six months after that period. On the 25th October, 1850, the Council, after two or three days deliberation, handed the Governor the following Minute:—

“The Committee of Council having had under consideration the resignation of his Honor the Chief Justice, and His Excellency's Memorandum accompanying the same, and having duly deliberated thereon, are of opinion that it is not advisable to appoint any person to the vacant office, and that such a revision of the Judiciary should be made by the Legislature as will secure the efficient discharge of the judicial duties by three Judges of the Supreme Court, together with the Master of the Rolls, and that the necessary measures should be made to carry out the above arrangement at the next Session of the Legislature.”